

Notice of Allowability

Application No.

10/507,139

Applicant(s)

LE GRAND ET AL.

Examiner

Susannah Chung

Art Unit

1626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 3/20/2007.
2. ☒ The allowed claim(s) is/are 1-10, 18-25 and 28.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>20070508</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

DETAILED ACTION

Claims 1-10 and 18-29 are pending in the instant application. Claims 11-17 are canceled.

Response

Applicant's remarks and amendment to the claims filed on 03/20/2007 are acknowledged. Claims 1-8 and 18-25 were rejected under 35 USC 102(b). This rejection is obviated in view of the amendment to the claims. Claims 26 and 27 were rejected under 35 USC 112, 1st paragraph as failing to comply with the written description requirement. This rejection is obviated in view of the examiner's amendment to the claims.

Examiner's Amendment

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Attorney Gregory C. Houghton on 05/03/2007.

The application has been amended as follows:

Delete claims 26, 27, and 29.

In claim 1, line 11, **delete** "or", after the word sulphur.

In claim 2, line 9, **delete** "or", after the word sulphur.

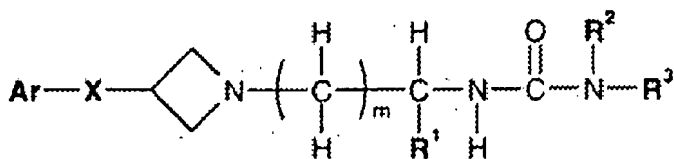
In claim 3, line 9, **delete** "or", after the word sulphur.

In claim 4, line 11, **delete** "or", after the word sulphur.

In claim 5, line 9, **delete** "or", after the word sulphur.

Art Unit: 1626

In claim 6, line 9, **delete** "or", after the word sulphur.



In claim 6, line 2 **insert** ---

--- in

line 2 before the word where.

In claim 9, line 10, **delete** "or", after the word sulphur.

In claim 10, line 9, **delete** "or", after the word sulphur.

In claim 18, page 10, **insert** ---.--- after the table at the end of the claim.

In claim 19, page 13, **insert** ---.--- after the table at the end of the claim.

In claim 20, page 14, **insert** ---.--- after the table at the end of the claim.

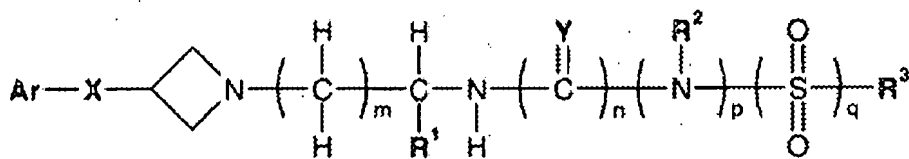
In claim 21, page 15, **insert** ---.--- after the table at the end of the claim.

In claim 22, page 19, **insert** ---.--- after the table at the end of the claim.

In claim 23, page 25, **insert** ---.--- after the table at the end of the claim.

Reasons for Allowance

The present invention is directed to azetidine derivatives as ccr-3 receptor antagonists of



formula (I),

, depicted in

claim 1.

The closest prior art of record is U.S. Pat. No. 5,095,014 (Taylor et al.), which does not teach or provide the requisite motivation to make the instantly claimed compounds, wherein R³ is a heterocyclic group having 5 to 11 ring atoms of which 1 to 4 are hetero atoms selected from nitrogen, oxygen, or sulphur. The prior art of Taylor teaches where R³ is allyl only. Support for

Art Unit: 1626

Claim 25 is found on pages 26-27 of the specification wherein the composition comprising an anti-inflammatory, a bronchodilator or an antihistamine is preferably selected from steroids, glucocorticosteroids, montelukast, zafirlukast, etc.... Absent the requisite motivation to make the instantly claimed compounds Claims 1-10, 18-25, and 28 directed to the compounds of formula (I), compositions and the process of making these compounds are allowed.

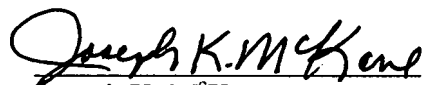
Telephone Inquiry

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susannah Chung whose telephone number is (571) 272-6098. The examiner can normally be reached on M-F, 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph McKane can be reached on (571) 272-0699. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Date: 8 May 2007